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7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 2009-127

11 **DANIEL SCOTT MORGAN, a.k.a.**
12 **DANIEL S. MORGAN**
8758 W. Shaw Butte Drive
Peoria, Arizona 85053

A C C U S A T I O N

13 Registered Nurse License No. 580075,

14 Respondent.

15
16 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

17 **PARTIES**

18 1. Complainant brings this Accusation solely in her official capacity as the
19 Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer
20 Affairs.

21 **Registered Nurse License**

22 2. On or about April 19, 2001, the Board issued Registered Nurse License
23 Number 580075 to Daniel Scott Morgan, also known as Daniel S. Morgan ("Respondent"). The
24 registered nurse license expired on May 31, 2005.

25 **STATUTORY PROVISIONS**

26 3. Section 2750 of the Business and Professions Code ("Code") provides, in
27 pertinent part, that the Board may discipline any licensee, including a licensee holding a

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1 temporary or an inactive license, for any reason provided in Article 3 (commencing with Code
2 section 2750) of the Nursing Practice Act.

3 4. Code section 2764 provides, in pertinent part, that the expiration of a
4 license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
5 against the licensee or to render a decision imposing discipline on the license. Under Code
6 section 2811, subdivision (b), the Board may renew an expired license at any time within eight
7 years after the expiration.

8 5. Code section 2761 states, in pertinent part:

9 The board may take disciplinary action against a certified or licensed nurse
10 or deny an application for a certificate or license for any of the following:

11 (a) Unprofessional conduct, which includes, but is not limited to, the
12 following:

13 (4) Denial of licensure, revocation, suspension, restriction, or any other
14 disciplinary action against a health care professional license or certificate by
15 another state or territory of the United States, by any other government agency, or
16 by another California health care professional licensing board. A certified copy of
17 the decision or judgment shall be conclusive evidence of that action.

18 6. Code section 125.3 provides, in pertinent part, that the Board may request
19 the administrative law judge to direct a licentiate found to have committed a violation or
20 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
21 and enforcement of the case.

22 7. **DRUG**

23 "Percocet," a brand of oxycodone, is a Schedule II controlled substance as
24 designated by Health and Safety Code section 11055, subdivision (b)(1)(N), and a dangerous
25 drug under Code section 4022 in that under federal or state law it requires a prescription.

26 **CAUSE FOR DISCIPLINE**

27 **(Out-of-State Discipline)**

28 8. Respondent's license is subject to disciplinary action under Code section
2761, subdivision (a)(4), on the grounds of unprofessional conduct, in that Respondent has been
disciplined by the Arizona State Board of Nursing (hereafter "Arizona Board"). Effective
April 17, 2007, pursuant to the Consent for Entry of Voluntary Surrender Order No. 0510008,

1 filed by the Arizona Board, attached hereto as **Exhibit "A"** and incorporated herein, Respondent
2 voluntarily surrendered his Arizona Professional Nurse License Number RN096972. The basis
3 for discipline was that on or about October 6, 2005, Respondent self-reported to the Arizona
4 Board that he was diverting Percocet for approximately 8 months. Respondent obtained the drug
5 from his employer at that time, Boswell Hospital.

6 **PRAYER**

7 **WHEREFORE**, Complainant requests that a hearing be held on the matters
8 herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

9 1. Revoking or suspending Registered Nurse License Number 580075, issued
10 to Daniel Scott Morgan;

11 2. Ordering Daniel Scott Morgan to pay the Board of Registered Nursing the
12 reasonable costs of the investigation and enforcement of this case, pursuant to Code section
13 125.3; and,

14 3. Taking such other and further action as deemed necessary and proper.
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16 DATED: 11/26/08
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RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant
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EXHIBIT A

**Consent for Entry of Voluntary Surrender Order No. 0510008
Arizona State Board of Nursing**

ARIZONA STATE BOARD OF NURSING
4747 North 7th Street, Suite 200
Phoenix, Arizona 85014
602-889-5150

07 APR 16 AM 9:48

IN THE MATTER OF PROFESSIONAL
NURSE LICENSE NO. RN096972
ISSUED TO:

DANIEL SCOTT MORGAN
RESPONDENT

CONSENT FOR ENTRY OF
VOLUNTARY SURRENDER
ORDER NO. 0510008

A complaint charging Daniel Scott Morgan ("Respondent") with violation of the Nurse Practice Act has been received by the Arizona State Board of Nursing ("Board"). In the interest of a prompt and speedy settlement of the above-captioned matter, consistent with the public interest, statutory requirements, and the responsibilities of the Board, and pursuant to A.R.S. §32-1663 (D)(5), Respondent voluntarily surrenders his license for a minimum of five years.

Based on the evidence before it, the Board makes the following Findings of Fact, Conclusions of Law:

FINDINGS OF FACT

1. Respondent holds Board issued professional nurse license no. RN096972.
2. On or about October 6, 2005 Respondent contacted the Board to self-report. He stated that he was diverting and using Percocet from his employer, Boswell Hospital, for approximately 8 months.
3. On or about October 19, 2005 Respondent met with Board staff for entry into CANDO. Respondent stated that he diverted Percocet for back pain but he denies using at work. He admitted to using 6-8 Percocet a day approximately 2 days a week. Respondent signed a Stipulated Agreement with the Board's CANDO Program, which in part, required him to attend a chemical

dependency treatment program, enroll in a drug screening program and submit to required monthly random drug screens, attend two AA meetings per week and nurse support group weekly, abstain from the use of alcohol and narcotics, attend aftercare, abstain from unauthorized drug use, notify CANDO of any prescription received, to refrain from working as a nurse until approval to return to work was obtained from the CANDO consultant and upon return to nursing practice, abide by standard nursing practice restrictions, which included no access to or administer narcotics for twelve (12) months.

4. Respondent failed to submit random urine drug screens on May 1, 2006, February 15, 2007, March 14, 2007, and March 16, 2007 in violation of his CANDO Stipulated Agreement.

5. On or about March 28, 2007, Board staff contacted Respondent regarding his missed drug screens. Respondent stated that he had opened his own business and he did not wish to continue in CANDO. Respondent requested to voluntarily surrender his license.

CONCLUSIONS OF LAW

Pursuant to A.R.S. § § 32-1606, 32-1663, and 32-1664, the Board has subject matter and personal jurisdiction in this matter.

The conduct and circumstances described in the Findings of Fact constitute a violation of A.R.S. § 32-1601(16)(d), (g), (i), (j), and A.A.C. R4-19-403(B) (1), (16), (18), and (31).

The conduct and circumstances described in the Findings of Fact constitute sufficient cause pursuant to A.R.S. §§ 32-1663 (D)(5) 32-1664(N) to take disciplinary action against Respondent's license to practice as a professional nurse in the State of Arizona.

Respondent admits the Board's Findings of Fact, Conclusions of Law.

Respondent understands that he has an opportunity to request a hearing and declines to do so. Respondent agrees to issuance of the attached Order and waives all rights to a hearing, rehearing, appeal, or judicial review relating to this Order.

Respondent understands that all investigative materials prepared or received by the Board concerning these violations and all notices and pleadings relating thereto may be retained in the Board's file concerning this matter.

Respondent understands that the admissions in the Findings of Fact are conclusive evidence of a violation of the Nurse Practice Act and may be used for purposes of determining sanctions in any future disciplinary matter.

Respondent understands the right to consult legal counsel prior to entering into the Consent Agreement and such consultation has either been obtained or is waived.

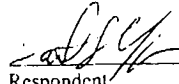
Respondent understands that this voluntary surrender is effective upon its acceptance by the Executive Director or the Board and by Respondent as evidenced by the respective signatures thereto. Respondent's signature obtained via facsimile shall have the same effect as an original signature. Once signed by the Respondent, the agreement cannot be withdrawn without the Executive Director or the Board's approval or by stipulation between the Respondent and the Executive Director or the Board. The effective date of this Order is the date the Voluntary Surrender is signed by the Executive Director or the Board and by Respondent. If the Voluntary Surrender is signed on a different date, the later date is the effective date.

Respondent understands that Voluntary Surrender constitutes disciplinary action. Respondent also understands that he may not reapply for reinstatement during the period of Voluntary Surrender.

Respondent agrees that he may apply for reinstatement after the period of voluntary surrender under the following conditions, and must comply with current law at the time of their application for reinstatement:

The application for reinstatement must be in writing and shall contain therein or have

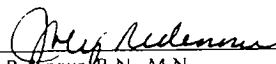
attached thereto substantial evidence that the basis for the voluntary surrender has been removed and that the reinstatement of the license does not constitute a threat to the public's health, safety and welfare. The Board may require physical, psychological, or psychiatric evaluations, reports and affidavits regarding the Respondent as it deems necessary. These conditions shall be met before the application for reinstatement is considered.


Respondent

Date: 4-3-07

ARIZONA STATE BOARD OF NURSING

SEAL


Joey Ridenour, R.N., M.N.
Executive Director

Dated: 4/17/07

CERTIFICATE NUMBER: RN096972 - MORGAN

ORDER

Pursuant to A.R.S. § 32-1663 (D)(5) the Board hereby accepts the Voluntary Surrender of professional nurse license number RN096972, issued to Daniel Scott Morgan. This Order of Voluntary Surrender hereby entered shall be filed with the Board and shall be made public upon the effective date of this Consent Agreement. Respondent shall not practice in Arizona under the privilege of a multistate license.

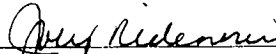
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IT IS FURTHER ORDERED that Respondent may apply for reinstatement of said
license after a period of five years.

SEAI.

ARIZONA STATE BOARD OF NURSING



Joey Ridenour, R.N., M.N.
Executive Director

Dated: 4/17/07

JR/CL:oz

COPY mailed this 30th day of March 2007, by First Class Mail to:

Signed in the Board Office this _____ day of _____, 2007.

Daniel Scott Morgan
4103 West Rimrock Drive
Glendale, Arizona 85308

By: Olga Zuniga
Administrative Secretary

**CANDO PROGRAM
ARIZONA STATE BOARD OF NURSING
CONFIDENTIAL STIPULATED AGREEMENT**

Pursuant to A.R.S. §32-1605.01(B)(6) and §32-1606(A)(5), the Arizona State Board of Nursing, through its executive director, has authority to enter into the following agreement and pursuant to A.R.S. §32-1663, as defined in A.R.S. §32-1601(16)(k), has authority to enforce the following agreement.

I, Daniel Scott Morgan, License No. RN096972, agree to participate in CANDO, the Arizona State Board of Nursing's ("Board") confidential, nondisciplinary monitoring program for chemically dependent nurses. I have voluntarily chosen to participate in CANDO and agree to adhere to the following conditions set forth in this agreement:

1. To participate in CANDO for a minimum period of three years.
2. To completely abstain from the use of alcohol and all other mind/mood altering medications and controlled and/or addictive substances.
3. To enter within fourteen (14) calendar days a Arizona Department of Health Services licensed and Board acceptable chemical dependency treatment program. I agree to abide by all recommendations of that program regarding ongoing treatment and discharge planning. Documentation of name of program, therapist and/or counselor, date of entry, attendance, progress, completion, and recommendations must be submitted to CANDO.
4. To refrain from the practice of nursing until CANDO has received a recommendation to return to work from the medical director or equivalent of the chemical dependency treatment program and CANDO has approved my re-entry into nursing.
5. Within seven (7) calendar days of the completion of the intensive phase of the treatment program, enter an Arizona Department of Health Services licensed and Board acceptable aftercare program facilitated by the original chemical dependency treatment program. The aftercare program must be a minimum of six (6) months in length. A CANDO provided aftercare report must be submitted to CANDO by the last day of my reporting months. In addition, a letter documenting successful completion must be submitted to CANDO by the aftercare program.
6. To be evaluated by a Board acceptable chemical dependency therapist after completing my first year in CANDO to identify any deficiencies in my recovery program. I agree to abide by his/her recommendations which may include ongoing counseling.
7. To attend a minimum of two (2) Alcoholics Anonymous or equivalent program meetings each week and to submit the CANDO provided attendance sheet by the last day of my reporting months. I will also obtain a sponsor within sixty (60) days of entering CANDO and maintain a relationship with a sponsor during my participation in CANDO.
8. To attend weekly a Board acceptable nurse recovery group. If there is no group within forty (40) miles of my home, I will attend an additional Alcoholics Anonymous or equivalent meeting each week.
9. To submit a complete CANDO provided self-report form to CANDO by the last day of my reporting months.

10. To select one health care provider for my health care needs and to immediately submit to him/her the CANDO provided health care provider form describing CANDO, the drug restrictions, and the required documentation if any medications are prescribed either currently or at any time while participating in CANDO. Additionally, I agree to notify any and all health care providers, that I receive treatment from, of my participation in CANDO prior to receiving treatment. If my health care provider prescribes a narcotic or mood altering medication, I shall ensure that the prescribing provider notifies CANDO immediately and submits monthly reports to CANDO regarding the continued need for the narcotic or mood-altering medication.
11. To refrain from taking any medication (except for ibuprofen, plain aspirin and/or acetaminophen) unless I have obtained a written authorization from my health care provider. I will maintain a log of all medications taken including ibuprofen, plain aspirin and acetaminophen, and will submit the log to CANDO by the last day of my reporting months. The log shall include the following information: the medication taken; the date and time the medication was taken; the name of the authorizing health care provider; the reason for the medication.
12. To immediately notify CANDO if I am hospitalized or must undergo any procedures requiring the administration of medication, and to provide all required documentation from any and all health care providers.
13. To enroll within seven (7) days in a program for random drug screens that meets the NIDA guidelines and to submit to the screens as required by CANDO. Any confirmed positive drug screen for which CANDO has not received appropriate notification and documentation from the prescribing provider will be considered a relapse. My employer will be notified immediately. I will be re-evaluated for continued participation in CANDO. If it is a second relapse. I understand I will be discharged from CANDO.
14. To give prior notification of any inability to screen to the lab and CANDO. If I fail to notify CANDO and the laboratory of my inability to screen and fail to screen, I will be considered noncompliant with CANDO.
15. To notify within five (5) calendar days CANDO and the lab of any change in my home and/or employment phone number and/or address.
16. To report immediately to CANDO any relapse. Relapse is any actual use of mood or mind altering chemicals including alcohol.
17. To immediately cease practice of nursing if I relapse. Upon a relapse, I understand that I may not return to the practice of nursing until I have received written approval from CANDO.
18. To inform any and all nursing employers and/or schools of nursing of my participation in CANDO and to provide a copy of my Agreement to them and my assigned supervising nurse before accepting any clinical nursing assignment or working in a capacity requiring my nursing license. The employer/my supervisor and/or school of nursing shall submit to CANDO the completed CANDO provided form which documents my work status and ability to comply with all work restrictions.
19. To notify CANDO of any change in my employment status within five (5) calendar days of the change.

20. To have my direct supervisor complete the CANDO provided performance evaluation form in time to allow for the reports to be received by CANDO by the last day of my reporting months.

21. To observe the following work restrictions:

- a) Will not work registry, traveling nurse, nursing float pool, or any temporary employment agency work and will not work in a home or other community based settings in which direct supervision is not available.
- b) Will work in a setting where there is always a minimum of one other registered nurse.
- c) Will only work the day or evening shift.
- d) Will not work more than forty (40) scheduled hours of work in one week.
- e) Will not work a shift within twelve (12) hours of the previous shift.
- f) Will not work more than three (3) 12-hour shifts consecutively.
- g) Will work in an area where there is consistent supervision provided by primarily one (1) individual who has been provided a copy of my Agreement. In the event that the assigned supervising nurse is no longer responsible for the supervision required by this paragraph, I shall cause my new supervising nurse to inform the CANDO Program, in writing and on employer letterhead, acknowledgment of the new supervisor's receipt of a copy of this Agreement and to include the new supervising nurse's ability to comply with the work related restrictions within ten days of assignment of a new supervising nurse.
- h) May float only when no reasonable alternative exists and the receiving area has knowledge of the Licensee's participation in CANDO.
- i) Will not have access to or dispense narcotics, synthetic narcotics including but not limited to Ultram, Nubain and Stadol, or other potentially addictive medications for a minimum of twelve (12) months. I agree to abide by this restriction until I have been evaluated by and receive written authorization from CANDO.
- j) Will not accept a new supervisory position for one (1) year.

22. To sign all release of information forms relevant to my treatment and health care.

23. Signing this agreement authorizes communication between CANDO and the identified employer and direct supervisor, and between CANDO and my treatment providers.

24. To appear in person for any requested interviews, given reasonable notice by CANDO.

25. My reporting months (the last day of every other month) while participating in CANDO are as follows:

November, January, March, May, July, and September.

I understand any and all expenses incurred while I am a participant in CANDO are my responsibility.

I agree to apply for renewal of my license in the event that my license is scheduled to expire while this Stipulated Agreement is in effect. I understand I must pay the applicable fee and maintain qualifications to practice nursing in Arizona.

I agree to inform the CANDO Program, in writing, of a pending relocation out of the State of Arizona, and agree to notify the Board of Nursing, in the state in which relocation to practice nursing is considered, that I am a participant in the Arizona Board of Nursing's nondisciplinary program. I

understand that I must fully comply with the terms of this Agreement, regardless of residency. I understand that while participating in CANDO, I am not eligible for a multistate "Compact" license.


I understand that if at any time during my participation in CANDO, a complaint against my license is received by the Board, my participation in CANDO will be communicated to the Board for the Board's review in consideration of the complaint.

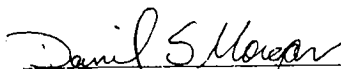
I understand that participation in CANDO is voluntary.

I understand that if I am noncompliant with the terms of this stipulated agreement in any respect, the CANDO Consultant may notify my employer of the noncompliance. Additionally, if I am noncompliant with any of the terms of the agreement, the length and terms of the agreement may be extended and/or modified, or I may be discharged from CANDO.

I understand that noncompliance with any of the terms of the Stipulated Agreement is considered a violation of the Nurse Practice Act. If terminated/discharged from this Agreement for noncompliance, any misconduct which may have occurred prior to the execution of this Stipulated Agreement or while this Agreement is in effect may be used in disciplinary proceedings by the Arizona State Board of Nursing (if I am discharged for noncompliance). Additionally, I understand that if discharged for noncompliance, all records of my participation in this program are no longer confidential or exempt from public records law. The Arizona State Board of Nursing may summarily suspend my nursing license if there is an immediate threat to the public health and safety. I further understand that Arizona State Board of Nursing disciplinary actions are reportable to the National Council of State Boards of Nursing Data Bank.

I hereby certify I have read this document, have had an opportunity to ask questions and I understand the agreement. Any modifications to the terms of this stipulated agreement are subject to the approval of the CANDO Consultant and must be documented in an addendum and signed by the Licensee and the Executive Director.


Joey Ridenour, R.N., M.N.
Executive Director


Licensee: Daniel Scott Morgan
License No.: RN096972

Date: October 19, 2005

Date: 10-19-2005

SEAL

SS:oz